

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
No. 5:20-cv-00219-M

LAUNCHING PAD RALEGH TRAMPOLINE )  
PARK INC., a North Carolina corporation, and )  
KRISTIE A. SISSON )

Plaintiffs, )

v. )

ROY COOPER, in his official capacity as )  
Governor of the State of North Carolina )

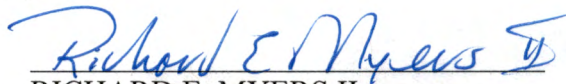
Defendant. )

ORDER

This matter is before the Court on Plaintiff's notice of voluntary dismissal, without prejudice, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i). [DE-13.] Under Rule 41(a)(1), an action may be voluntarily dismissed by a plaintiff without order of the court at any time before service by the adverse party of an answer or a motion for summary judgment. *See* Fed. R. Civ. P. 41(a)(1). Although Defendant has filed a motion to dismiss [DE-10], Defendant has not filed an answer or a motion for summary judgment, and the notice of voluntary dismissal is proper. *See U.S. Tobacco Coop., Inc. v. Big S. Wholesale of Virginia, LLC*, 365 F. Supp. 3d 604, 614 (E.D.N.C. 2019) ("Rule 41(a)(1)(A)(i) provides a plaintiff with the right to dismiss an action without a court order by filing a notice of dismissal before the opposing party has filed an answer or motion for summary judgment . . . . Accordingly, by operation of the notice of voluntary dismissal, the United States has been dismissed as a defendant in this action . . . . and the United States' motion to dismiss is denied as moot.").

Accordingly, Defendant's motion to dismiss [DE-10] is DENIED as moot, and the action is DISMISSED without prejudice. The Clerk is DIRECTED to close the case.

SO ORDERED, this the 7<sup>th</sup> day of August, 2020.

  
RICHARD E. MYERS II  
UNITED STATES DISTRICT JUDGE